

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2022 Regular Session**

Part I: Measure Information

Bill Request #: 174

Bill #: HB 154

Document ID #: 1729

Bill Subject/Title: AN ACT relating to driving under the influence and declaring an emergency

Sponsor: Representative Patrick Flannery

Unit of Government: City **X** County **X** Urban-County
Unified Local
 X Charter County **X** Consolidated Local **X** Government

Office(s) Impacted: jails and county attorneys' offices

Requirement: **X** Mandatory Optional

Effect on

Powers & Duties: **X** Modifies Existing Adds New **X** Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

Under current law, KRS 189A.010(11)(e) deems refusal to submit to a blood, breath or urine test an “aggravating factor” to be considered for the purpose of enhancing consequences for driving under the influence of drugs or alcohol. HB 154 **Section 1** would amend KRS 189A.010(11)(e) to remove refusal to submit to a blood test as an aggravating factor.

KRS 189A.105 currently provides that refusal to submit to a blood, breath or urine test may be used against a defendant in court as evidence of a DUI violation. **Section 3** of HB 154 would amend KRS 189A.105 to remove refusal to submit to a *blood* test as evidence admissible in court to prove driving under the influence of drugs or alcohol. **Section 3** would also amend that statute to authorize a court to issue a search warrant for a blood or urine test in a DUI case without the current requirement of a fatality or serious injury.

Section 5 of the bill would amend KRS 189A.110 to establish that a person arrested for DUI whose **breath** analysis, rather than **blood** alcohol test as under current law, shows an alcohol concentration of 0.15 or more is to be retained in custody for at least four hours following their arrest.

Section 6 declares an emergency and that the Act will take effect on its passage and approval by the Governor, or otherwise becoming law.

The fiscal impact on jails and county attorney offices is nil to minimal. The Kentucky County Attorneys Association reports that HB 154 would have no fiscal impact on their offices, and would not increase the number of cases handled or staffing required. KCAA reports that the bill would render their prosecution of DUI cases more effective since they could get search warrants on a showing of probable cause, without the requirement of a fatality or serious injury. As for jail costs, the statute would still require that a person arrested for DUI submit to a urine or breath test, so eliminating the requirement for a blood test could only minimally, if at all, reduce the number of persons convicted and sentenced to jail time for DUI; however, any reduction in the number of persons jailed because of this may be negated because eliminating the requirement that a fatality or serious injury occur before a judge may issue a search warrant for blood or urine could increase the number of persons convicted. Fewer people in jail would have a positive impact on jail costs, though minimal in this case.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II applies to HB 154 as introduced. There is no prior version.

Data Source(s): LRC staff, Department of Corrections, Kentucky County Attorneys Association

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/1/22